

FEDERAL ELECTION COMMISSION
FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL: 17L-22
DATE REFERRED: 7/27/2017
DATE OF NOTIFICATION: 8/1/2017
LAST RESPONSE RECEIVED: 9/8/2017
DATE ACTIVATED: 2/9/2018

ELECTION CYCLE: 2016
EXPIRATION OF SOL: 1/20/2021

SOURCE: RAD REFERRAL

RESPONDENTS: David Vitter for U.S. Senate and William
Vanderbrook in his official capacity as treasurer

**RELEVANT STATUTES
AND REGULATIONS:** 52 U.S.C. § 30116(a)
52 U.S.C. § 30116(f)
11 C.F.R. § 102.9(e)
11 C.F.R. § 110.1(b)(3)
11 C.F.R. § 110.2(b)(3)

INTERNAL REPORTS CHECKED: RAD Referral Documents
Disclosure Reports

AGENCIES CHECKED: None

I. INTRODUCTION

The Commission's Reports Analysis Division ("RAD") referred David Vitter for U.S. Senate and William Vanderbrook in his official capacity as treasurer ("the Committee") to the Office of the General Counsel ("OGC") for its failure to refund \$237,650 in general election contributions after Vitter withdrew from the 2016 Louisiana Senate race prior to the general election. As discussed below, we recommend that the Commission find reason to believe that the Committee violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3), and authorize pre-probable cause conciliation with the Committee.

II. FACTS

The Committee was the principal campaign committee of former Louisiana Senator David Vitter who ran as a candidate for re-election to the U.S. Senate during the 2016 election cycle.¹ William Vanderbrook is the Committee's treasurer. In addition to being a candidate for Senate, Vitter also ran for governor of Louisiana in the 2015 gubernatorial election. After losing the gubernatorial race on November 21, 2015, however, Vitter announced he was withdrawing from the 2016 Senate race.² At the time he withdrew, the Committee had approximately \$30,000 cash on hand.³

Under Louisiana's "open primary" system, all candidates appear on the same ballot in November irrespective of any party affiliation.⁴ Louisiana refers to this election as the primary, although it is held on the same day in November that other states hold their state general election.⁵ If no candidate obtains a majority of votes in the November election, then the top two candidates participate in a run-off election in December.⁶ Because of Louisiana's unique electoral system, the Commission has advised candidates that it considers the "primary election" date in Louisiana to be the last day to file for the November election ballot.⁷ For the 2016 Senate

¹ David Vitter, Statement of Candidacy (June 9, 2011).

² Request for Consideration of a Legal Question by the Commission from the Committee (L.R.A. 1027) at 2.

³ David Vitter for U.S. Senate ("Vitter") 2015 Year-End Report at 2 (Jan. 29, 2016) (cash on hand was \$30,226.70 at the close of reporting period).

⁴ Advisory Op. 1984-54 (Friends of Bob Livingston) at 1 ("AO 1984-54"). *See also* <https://www.sos.la.gov/ElectionsAndVoting/GetElectionInformation/ReviewTypesOfElections/Pages/default.aspx> (under Louisiana's open primary system, "any qualified elector may qualify as a candidate, regardless of party, and run for office and all eligible voters may cast a vote in the election, regardless of party affiliation.")

⁵ La. Rev. Stat. Ann. § 18:402.

⁶ *Id.* § 18:481; AO 1984-54 at 2.

⁷ Advisory Op. 2000-29, at 5 (Louisiana Congressional Delegation).

1 cycle, the Commission considered the primary election date to be July 22, 2016 — eight months
2 after Vitter withdrew from the race in November 2015. Accordingly, on April 12, 2016, RAD
3 sent the Committee a Request for Additional Information (“RFAI”) noting the receipt of
4 contributions designated for the 2016 Senate general election race totaling over \$300,000, and
5 requesting that the Committee refund or redesignate those contributions since Vitter would not
6 be participating in the 2016 general election.⁸ Vanderbrook spoke with RAD by phone the next
7 day, and explained that the Committee believed it was not obligated to refund any general
8 election contributions because of Louisiana’s unique open primary election system.⁹ On May
9 24, 2016, the Committee filed a Miscellaneous Document with the Commission stating that
10 RAD’s RFAI “is not reflective of Louisiana’s unique runoff election system.”¹⁰ On July 27,
11 2016, RAD, after seeking advice from OGC, confirmed to Vanderbrook that the Act requires that
12 the Committee redesignate or refund the general election contributions, but noted that the
13 Committee could seek a legal opinion from the Commission.¹¹

14 On August 17, 2016, the Committee submitted a Request for Consideration of a Legal
15 Question concerning whether the Committee was required to keep primary and general election
16 funds segregated in light of Louisiana’s “open primary” system.¹² In response, the Commission
17 voted unanimously that the Committee must refund all general election contributions.¹³

⁸ RFAI: 2015 Year-End Report (Apr. 12, 2016).

⁹ RAD Referral 17L-22 (“Referral”), Attachment 3 (Communication Log).

¹⁰ Misc. Document (May 24, 2016).

¹¹ Referral, Attachment 3 (Communication Log).

¹² LRA 1027.

¹³ Vote Certification, LRA 1027 (Oct. 27, 2016).

1 Following the Commission's decision in October 2016, counsel for the Committee spoke
2 with RAD about refunding as many general election contributions as possible using the
3 Committee's cash on hand, which the Committee estimated to be about \$85,000 at that time.¹⁴
4 The Committee also informed RAD that it was expecting over \$200,000 in restitution payments
5 from a vendor that had embezzled funds from the Committee,¹⁵ and would use all of that money
6 to make additional refunds.¹⁶ The Committee's 2016 Year-End Report reflects refunds of
7 \$81,800, with just over \$10,000 cash on hand remaining.¹⁷

8 The Committee did not make any additional refunds beyond this \$81,800, and on July 27,
9 2017, RAD referred the Committee to OGC. The Committee currently has unrefunded general
10 election contributions totaling \$237,650.¹⁸ The Committee submitted a response to the referral
11 on September 8, 2017, which again proposed to commit any restitution funds the Committee
12 receives to repaying the outstanding general election contributions.¹⁹ The Committee reported
13 receiving a restitution payment from the U.S. Treasury of roughly \$38,000 on September 21,

¹⁴ Referral, Attachment 3 (Communication Log).

¹⁵ That embezzlement was the subject of MUR 6980 (Pate), as well as a criminal prosecution. *United States v. Pate*, No. 15-cr-74 (W.D. Ky.).

¹⁶ Referral, Attachment 3 (Communication Log).

¹⁷ 2016 Year-End Report (Jan. 31, 2017). Although these refunds were made more than 60 days after Vitter withdrew from the Senate race, RAD did not include the contributions in the referral because the refunds were made within 60 days from the date the Committee was notified of the Commission's response to the Request for Consideration of a Legal Question.

¹⁸ Referral at 1. The contributors who have not received refunds include 78 individuals, 2 limited liability companies, 40 multicandidate political action committees, and 1 non-multicandidate political action committee. *Id.*

¹⁹ Response at 1-2 (Sept. 8, 2017).

16044467216

2017, and had just over \$42,000 cash on hand at the end of 2017,²⁰ but has made no further refunds.

III. LEGAL ANALYSIS

Under the Federal Election Campaign Act of 1971, as amended (the "Act"), an individual may not make a contribution to a candidate with respect to any election in excess of the legal limit, which was \$2,700 per election during the 2016 election cycle.²¹ A multicandidate political action committee may not make contributions to a candidate in excess of \$5,000 per election.²² A primary election and a general election are each considered a separate "election" under the Act, and the contribution limits are applied separately with respect to each election.²³ Candidates and political committees are prohibited from knowingly accepting excessive contributions.²⁴

The Commission's regulations permit a candidate's committee to receive contributions for the general election prior to the primary election.²⁵ However, the committee must use an acceptable accounting method to distinguish between primary and general election contributions.²⁶ The committee's records must demonstrate that prior to the primary election,

²⁰ 2017 October Quarterly Report (Oct. 13, 2017); 2017 Year-End Report (Jan. 30, 2018).

²¹ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

²² 52 U.S.C. § 30116(a)(2)(A); 11 C.F.R. § 110.2(b)(1).

²³ 52 U.S.C. §§ 30101(1)(A), 30116(a)(6); 11 C.F.R. §§ 100.2, 110.1(j).

²⁴ 52 U.S.C. § 30116(f).

²⁵ 11 C.F.R. § 102.9(e)(1).

²⁶ *Id.*

1 the committee's recorded cash on hand was at all times equal to or in excess of the sum of
2 general election contributions received less the sum of general election disbursements made.²⁷

3 Furthermore, if the candidate ultimately does not become a candidate for the general
4 election, the committee must refund, redesignate, or reattribute any general election contributions
5 in accordance with applicable Commission regulations.²⁸ The committee must do so within 60
6 days of the date that the committee has actual notice of the need to redesignate, reattribute, or
7 refund the contributions.²⁹ A committee cannot redesignate general election funds to the primary
8 election if doing so would cause the contributor to exceed the maximum allowable contribution
9 for that election.³⁰ Likewise, reattribution of a general election contribution may only occur to
10 the extent that such attribution does not exceed the contributor's contribution limits.³¹

11 In this matter, Vitter withdrew from the Senate race on November 21, 2015, prior to July
12 22, 2016, the date the Commission considers the primary election date in Louisiana.
13 Accordingly, the Committee was required to refund the contributions totaling \$237,650 that were
14 designated for the 2016 Senate general election within 60 days of Vitter's withdrawal on
15 November 21, 2015, but failed to do so. Nor did the Committee refund those contributions
16 within 60 days from the date it was notified of the Commission's response to the Committee's
17 Request for Consideration of a Legal Question.

²⁷ *Id.* § 102.9(e)(2).

²⁸ *Id.* § 102.9(e)(3).

²⁹ See Advisory Op. 2008-04 (Dodd); Advisory Op. 1992-15 (Russo).

³⁰ 11 C.F.R. §§ 110.1(b)(5)(iii), 110.2(b)(5)(iii). Furthermore, amounts redesignated may not exceed the net debts outstanding from the primary. *Id.*

³¹ *Id.* § 110.1(k)(3)(ii)(B)(1).

1 In its response to the referral, the Committee no longer disputes that it was required to
2 refund contributions designated for the 2016 general election. Rather, it argues that “the fact it is
3 a victim of fraud and owed over \$250,000 is preventing it from repaying the donors.”³²
4 However, at various times after RAD informed the Committee of its obligation to refund the
5 general election contributions, the Committee had funds that it could have used to make refunds,
6 but chose not to do so. For example, the Committee received \$154,017.36 in restitution from the
7 U.S. Treasury between August and September 2016 — well after RAD informed the Committee
8 of its obligation to refund general election contributions — but used only about half of those
9 funds to make the required refunds of the general election contributions.³³

10 Further, the embezzlement does not affect the Committee’s responsibility under
11 Commission regulations to separately account for its primary and general election funds and
12 maintain cash on hand that is at all times equal to or in excess of the sum of general election
13 contributions received less the sum of general election disbursements made. Here, it is clear that
14 the Committee failed to comply with these requirements. In 2014 and 2015, for example, the
15 Committee disbursed \$850,000 to the Fund for Louisiana’s Future (the “Fund”), a separate,
16 independent expenditure-only committee supporting Vitter’s gubernatorial race, leaving the

³² Resp. at 2.

³³ After receiving the restitution payment, the Committee disbursed \$50,000 to the National Republican Senatorial Committee on September 15, 2016. Vitter 2016 October Quarterly Report (Oct. 13, 2016). And during the fourth quarter of 2016, almost one year after Vitter withdrew from the Senate race, the Committee reported over \$20,000 in operating expenditures, which included over \$13,000 spent on restaurant meals, designated for the 2016 primary election. Vitter 2016 Year-End Report at 2, 6-13 (Jan. 31, 2017).

1 Committee with substantially less cash on hand than it had received in general election
2 contributions.³⁴

3 Based on the foregoing, we recommend that the Commission find reason to believe that
4 David Vitter for U.S. Senate and William Vanderbrook in his official capacity as treasurer
5 violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3) by
6 knowingly accepting excessive contributions and failing to refund contributions designated for
7 the general election.

8
9
10
11
12
13
14
15
16

³⁴ The Committee's 2014 Year-End Report shows disbursements to the Fund for Louisiana's Future of \$740,000 on November 5, 2014, and \$50,000 on December 31, 2014, leaving \$41,142.68 cash on hand at the end of the reporting period. Yet by the end of 2014, the Committee had already accepted \$192,950 of the unrefunded general election contributions RAD referred. The Committee's 2015 October Quarterly Report shows a disbursement to the Fund for Louisiana's Future of \$60,000 on July 10, 2015, which left the Committee with \$26,216.37 cash on hand at the end of the reporting period. By July 10, 2015, the Committee had already accepted \$220,350 of the unrefunded general election contributions RAD referred.

V. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that David Vitter for U.S. Senate and William Vanderbrook in his official capacity as treasurer violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3).
3. Approve the attached Factual and Legal Analysis.
4. Authorize pre-probable cause conciliation with David Vitter for U.S. Senate and William Vanderbrook in his official capacity as treasurer prior to a finding of probable cause to believe.
5. Approve the attached proposed conciliation agreement.
6. Approve the appropriate letter.

Lisa J. Stevenson
Acting General Counsel

Date: 6/8/18

Kathleen M. Guith
Kathleen M. Guith
Associate General Counsel

Jin Lee
Jin Lee
Acting Assistant General Counsel

Amanda Andrade
Amanda Andrade
Attorney

Attachments:

1. Factual and Legal Analysis

16044440001

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5
6
7 RESPONDENTS: David Vitter for U.S. Senate and MUR
8 William Vanderbrook in his
9 official capacity as treasurer
10

11 **I. INTRODUCTION**

12 The Commission's Reports Analysis Division ("RAD") referred David Vitter for U.S.
13 Senate and William Vanderbrook in his official capacity as treasurer ("the Committee") to the
14 Office of the General Counsel ("OGC") for its failure to refund \$237,650 in general election
15 contributions after Vitter withdrew from the 2016 Louisiana Senate race prior to the general
16 election. As discussed below, the Commission finds reason to believe that the Committee
17 violated 52 U.S.C. § 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3).

18 **II. FACTS**

19 The Committee was the principal campaign committee of former Louisiana Senator
20 David Vitter who ran as a candidate for re-election to the U.S. Senate during the 2016 election
21 cycle.¹ William Vanderbrook is the Committee's treasurer. In addition to being a candidate for
22 Senate, Vitter also ran for governor of Louisiana in the 2015 gubernatorial election. After losing
23 the gubernatorial race on November 21, 2015, however, Vitter announced he was withdrawing

1 David Vitter, Statement of Candidacy (June 9, 2011).

1 from the 2016 Senate race.² At the time he withdrew, the Committee had approximately \$30,000
2 cash on hand.³

3 Under Louisiana's "open primary" system, all candidates appear on the same ballot in
4 November irrespective of any party affiliation.⁴ Louisiana refers to this election as the primary,
5 although it is held on the same day in November that other states hold their state general
6 election.⁵ If no candidate obtains a majority of votes in the November election, then the top two
7 candidates participate in a run-off election in December.⁶ Because of Louisiana's unique
8 electoral system, the Commission has advised candidates that it considers the "primary election"
9 date in Louisiana to be the last day to file for the November election ballot.⁷ For the 2016 Senate
10 cycle, the Commission considered the primary election date to be July 22, 2016 — eight months
11 after Vitter withdrew from the race in November 2015. Accordingly, on April 12, 2016, RAD
12 sent the Committee a Request for Additional Information ("RFAI") noting the receipt of
13 contributions designated for the 2016 Senate general election race totaling over \$300,000, and
14 requesting that the Committee refund or redesignate those contributions since Vitter would not
15 be participating in the 2016 general election.⁸ Vanderbrook spoke with RAD by phone the next

² Request for Consideration of a Legal Question by the Commission from the Committee (LRA 1027) at 2.

³ David Vitter for U.S. Senate ("Vitter") 2015 Year-End Report at 2 (Jan. 29, 2016) (cash on hand was \$30,226.70 at the close of reporting period).

⁴ Advisory Op. 1984-54 (Friends of Bob Livingston) at 1 ("AO 1984-54"). *See also* <https://www.sos.la.gov/ElectionsAndVoting/GetElectionInformation/ReviewTypesOfElections/Pages/default.aspx> (under Louisiana's open primary system, "any qualified elector may qualify as a candidate, regardless of party, and run for office and all eligible voters may cast a vote in the election, regardless of party affiliation.")

⁵ La. Rev. Stat. Ann. § 18:402.

⁶ *Id.* § 18:481; AO 1984-54 at 2.

⁷ Advisory Op. 2000-29, at 5 (Louisiana Congressional Delegation).

⁸ RFAI: 2015 Year-End Report (Apr. 12, 2016).

1 day, and explained that the Committee believed it was not obligated to refund any general
2 election contributions because of Louisiana's unique open primary election system.⁹ On May
3 24, 2016, the Committee filed a Miscellaneous Document with the Commission stating that
4 RAD's RFAI "is not reflective of Louisiana's unique runoff election system."¹⁰ On July 27,
5 2016, RAD, after seeking advice from OGC, confirmed to Vanderbrook that the Act requires that
6 the Committee redesignate or refund the general election contributions, but noted that the
7 Committee could seek a legal opinion from the Commission.¹¹

8 On August 17, 2016, the Committee submitted a Request for Consideration of a Legal
9 Question concerning whether the Committee was required to keep primary and general election
10 funds segregated in light of Louisiana's "open primary" system.¹² In response, the Commission
11 voted unanimously that the Committee must refund all general election contributions.¹³

12 Following the Commission's decision in October 2016, counsel for the Committee spoke
13 with RAD about refunding as many general election contributions as possible using the
14 Committee's cash on hand, which the Committee estimated to be about \$85,000 at that time.¹⁴
15 The Committee also informed RAD that it was expecting over \$200,000 in restitution payments
16 from a vendor that had embezzled funds from the Committee,¹⁵ and would use all of that money

⁹ RAD Referral 17L-22 at 5 ("Referral").

¹⁰ Misc. Document (May 24, 2016).

¹¹ Referral at 5.

¹² LRA 1027.

¹³ Vote Certification, LRA 1027 (Oct. 27, 2016).

¹⁴ Referral at 6.

¹⁵ That embezzlement was the subject of MUR 6980 (Pate), as well as a criminal prosecution. *United States v. Pate*, No. 15-cr-74 (W.D. Ky.).

1 to make additional refunds.¹⁶ The Committee's 2016 Year-End Report reflects refunds of
2 \$81,800, with just over \$10,000 cash on hand remaining.¹⁷

3 The Committee did not make any additional refunds beyond this \$81,800, and on July 27,
4 2017, RAD referred the Committee to OGC. The Committee currently has unrefunded general
5 election contributions totaling \$237,650.¹⁸ The Committee submitted a response to the referral
6 on September 8, 2017, which again proposed to commit any restitution funds the Committee
7 receives to repaying the outstanding general election contributions.¹⁹ The Committee reported
8 receiving a restitution payment from the U.S. Treasury of roughly \$38,000 on September 21,
9 2017, and had just over \$42,000 cash on hand at the end of 2017,²⁰ but has made no further
10 refunds.

11 **III. LEGAL ANALYSIS**

12 Under the Federal Election Campaign Act of 1971, as amended (the "Act"), an individual
13 may not make a contribution to a candidate with respect to any election in excess of the legal
14 limit, which was \$2,700 per election during the 2016 election cycle.²¹ A multicandidate political
15 action committee may not make contributions to a candidate in excess of \$5,000 per election.²²

¹⁶ Referral at 6.

¹⁷ 2016 Year-End Report (Jan. 31, 2017). Although these refunds were made more than 60 days after Vitter withdrew from the Senate race, RAD did not include the contributions in the referral because the refunds were made within 60 days from the date the Committee was notified of the Commission's response to the Request for Consideration of a Legal Question.

¹⁸ Referral at 1. The contributors who have not received refunds include 78 individuals, 2 limited liability companies, 40 multicandidate political action committees, and 1 non-multicandidate political action committee. *Id.*

¹⁹ Response at 1-2 (Sept. 8, 2017).

²⁰ 2017 October Quarterly Report (Oct. 13, 2017); 2017 Year-End Report (Jan. 30, 2018).

²¹ 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).

²² 52 U.S.C. § 30116(a)(2)(A); 11 C.F.R. § 110.2(b)(1).

1 A primary election and a general election are each considered a separate "election" under the
2 Act, and the contribution limits are applied separately with respect to each election.²³
3 Candidates and political committees are prohibited from knowingly accepting excessive
4 contributions.²⁴

5 The Commission's regulations permit a candidate's committee to receive contributions
6 for the general election prior to the primary election.²⁵ However, the committee must use an
7 acceptable accounting method to distinguish between primary and general election
8 contributions.²⁶ The committee's records must demonstrate that prior to the primary election,
9 the committee's recorded cash on hand was at all times equal to or in excess of the sum of
10 general election contributions received less the sum of general election disbursements made.²⁷

11 Furthermore, if the candidate ultimately does not become a candidate for the general
12 election, the committee must refund, redesignate, or reattribute any general election contributions
13 in accordance with applicable Commission regulations.²⁸ The committee must do so within 60
14 days of the date that the committee has actual notice of the need to redesignate, reattribute, or
15 refund the contributions.²⁹ A committee cannot redesignate general election funds to the primary
16 election if doing so would cause the contributor to exceed the maximum allowable contribution

²³ 52 U.S.C. §§ 30101(1)(A), 30116(a)(6); 11 C.F.R. §§ 100.2, 110.1(j).

²⁴ 52 U.S.C. § 30116(f).

²⁵ 11 C.F.R. § 102.9(e)(1).

²⁶ *Id.*

²⁷ *Id.* § 102.9(e)(2).

²⁸ *Id.* § 102.9(e)(3).

²⁹ See Advisory Op. 2008-04 (Dodd); Advisory Op. 1992-15 (Russo).

1 for that election.³⁰ Likewise, reattribution of a general election contribution may only occur to
2 the extent that such attribution does not exceed the contributor's contribution limits.³¹

3 In this matter, Vitter withdrew from the Senate race on November 21, 2015, prior to July
4 22, 2016, the date the Commission considers the primary election date in Louisiana.

5 Accordingly, the Committee was required to refund the contributions totaling \$237,650 that were
6 designated for the 2016 Senate general election within 60 days of Vitter's withdrawal on
7 November 21, 2015, but failed to do so. Nor did the Committee refund those contributions
8 within 60 days from the date it was notified of the Commission's response to the Committee's
9 Request for Consideration of a Legal Question.

10 In its response to the referral, the Committee no longer disputes that it was required to
11 refund contributions designated for the 2016 general election. Rather, it argues that "the fact it is
12 a victim of fraud and owed over \$250,000 is preventing it from repaying the donors."³²
13 However, at various times after RAD informed the Committee of its obligation to refund the
14 general election contributions, the Committee had funds that it could have used to make refunds,
15 but chose not to do so. For example, the Committee received \$154,017.36 in restitution from the
16 U.S. Treasury between August and September 2016 — well after RAD informed the Committee

³⁰ 11 C.F.R. §§ 110.1(b)(5)(iii), 110.2(b)(5)(iii). Furthermore, amounts redesignated may not exceed the net debts outstanding from the primary. *Id.*

³¹ *Id.* § 110.1(k)(3)(ii)(B)(1).

³² Resp. at 2.

1 of its obligation to refund general election contributions — but used only about half of those
2 funds to make the required refunds of the general election contributions.³³

3 Further, the embezzlement does not affect the Committee's responsibility under
4 Commission regulations to separately account for its primary and general election funds and
5 maintain cash on hand that is at all times equal to or in excess of the sum of general election
6 contributions received less the sum of general election disbursements made. Here, it is clear that
7 the Committee failed to comply with these requirements. In 2014 and 2015, for example, the
8 Committee disbursed \$850,000 to the Fund for Louisiana's Future (the "Fund"), a separate,
9 independent expenditure-only committee supporting Vitter's gubernatorial race, leaving the
10 Committee with substantially less cash on hand than it had received in general election
11 contributions.³⁴

12 Based on the foregoing, the Commission finds reason to believe that David Vitter for
13 U.S. Senate and William Vanderbrook in his official capacity as treasurer violated 52 U.S.C. §
14 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3) by knowingly accepting
15 excessive contributions and failing to refund contributions designated for the general election.

³³ After receiving the restitution payment, the Committee disbursed \$50,000 to the National Republican Senatorial Committee on September 15, 2016. Vitter 2016 October Quarterly Report (Oct. 13, 2016). And during the fourth quarter of 2016, almost one year after Vitter withdrew from the Senate race, the Committee reported over \$20,000 in operating expenditures, which included over \$13,000 spent on restaurant meals, designated for the 2016 primary election. Vitter 2016 Year-End Report at 2, 6-13 (Jan. 31, 2017).

³⁴ The Committee's 2014 Year-End Report shows disbursements to the Fund for Louisiana's Future of \$740,000 on November 5, 2014, and \$50,000 on December 31, 2014, leaving \$41,142.68 cash on hand at the end of the reporting period. Yet by the end of 2014, the Committee had already accepted \$192,950 of the unrefunded general election contributions RAD referred. The Committee's 2015 October Quarterly Report shows a disbursement to the Fund for Louisiana's Future of \$60,000 on July 10, 2015, which left the Committee with \$26,216.37 cash on hand at the end of the reporting period. By July 10, 2015, the Committee had already accepted \$220,350 of the unrefunded general election contributions RAD referred.